

BK1100337  
KAB

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
AT CINCINNATI

IN RE:

Case No. 10-10633

Raymond Brummett  
Nancy C. Brummett

Chapter 13

Debtors

Judge Perlman

**MOTION OF U.S. BANK, N.A. BY  
AND THROUGH U.S. BANK  
HOME MORTGAGE ITS  
SERVICER FOR RELIEF FROM  
STAY**

**(PROPERTY ADDRESS: 102 STAN  
ROBERTS ROAD, WEST UNION,  
OH 45693)**

U.S. Bank, N.A. by and through U.S. Bank Home Mortgage its servicer, (the "Movant") moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001, 6007, and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. Proof of Claim # 8 per the Claims Register and being Trustee's Claim #4. In support of this Motion, the Movant states:

## **MEMORANDUM IN SUPPORT**

1 The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

2 A copy of the Deed to the subject property is attached hereto as Exhibit "A". On August 6, 2007, the debtors listed above (collectively, the "Debtors") obtained a loan from U.S. Bank, N.A. in the amount of \$95,993.00. Such loan was evidenced by a promissory note dated August 6, 2007 (the "Note"), a copy of which is attached as Exhibit "B".

3 To secure payment of the Note and performance of the other terms contained in it, the debtors executed a Mortgage dated August 6, 2007 (the "Security Agreement"). The Security Agreement granted a lien on the real and/or personal property (the "Collateral") owned by the debtors, located at 102 Stan Roberts Road, West Union, OH 45693, and more fully described in the Security Agreement.

4 The lien created by the Security Agreement was duly perfected by the filing of the Security Agreement in the office of the Adams County Recorder on August 13, 2007. A copy of the Security Agreement is attached to this Motion as Exhibit "C". The lien is the First lien on the collateral.

5 The Security Agreement were transferred as follows:  
to U.S. Bank, N.A. as evidenced by the assignment recorded on January 2, 2009 attached hereto as Exhibit "D".

6 The value of the Collateral is \$95,000.00. This valuation is based on Debtors' Schedules.

7 As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$108,810.08, plus interest accruing thereon at the rate of 6.25% per annum (\$16.21 per day) from March 24, 2011.

8 Other parties who may have an interest in the Collateral are:

Citifinancial by virtue of a certified judgment lien upon which the amount due is approximately \$5,000.00.

9 Movant is entitled to relief from the automatic stay under §§ 362(d)(1) and/or 362(d)(2) for these reason(s):

Debtors have no equity in the Collateral and the Collateral is not needed by the debtors for their reorganization. Movant believes that the collateral has a value of \$95,000.00. Including the Movant's lien, there are liens in an aggregate amount of \$113,810.08 on the Collateral.

Debtors have failed to provide adequate protection for the lien held by the Movant for the reason set forth below.

Debtors have failed to make periodic payments to Movant since the commencement of this bankruptcy case, which unpaid payments are in the aggregate amount of \$4,922.81, consisting of the following:

Post-Petition Payments

<b>Amount</b>	<b>Date Due</b>
790.54	October 1, 2010
790.54	November 1, 2010
790.54	December 1, 2010
790.54	January 1, 2011
790.54	February 1, 2011
790.54	March 1, 2011

Post Petition Late Charges:

<b>Amount</b>	<b>Date Due</b>
32.95	October 15, 2010
32.95	November 15, 2010
32.95	December 15, 2010
32.95	January 15, 2010
32.95	February 15, 2010
32.95	March 15, 2010

less debtor's suspense balance of \$18.13, as of March 24, 2011.

10 Pursuant to LBR 4001-1(a) Movant has completed the Exhibit and Worksheet attached as Exhibit "E".

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of §362 of the Bankruptcy Code to permit Movant to proceed under law and for such other and further relief to which the Movant may be entitled.

/s/ Erin A Jochim  
Erin A Jochim, Case Attorney  
LERNER, SAMPSON & ROTHFUSS  
Bar Registration No. 0077062  
Attorneys for Movant  
PO Box 5480  
Cincinnati, OH 45201-5480  
(513) 241-3100 ext. 3920  
(513) 354-6464 fax  
sohbk@lsrlaw.com

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing Motion for Relief from Stay of the secured creditor, U.S. Bank, N.A. by and through U.S. Bank Home Mortgage its servicer, was electronically transmitted on March 23, 2011 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice list.

David J Hoff, Esq.  
800 Gallia Street, Suite 28  
Portsmouth, OH 45662  
dhoff.dkandco@fuse.net

G. Timothy Dearfield, Esq.  
800 Gallia Street, Suite 28  
Portsmouth, OH 45662  
dkandco@midohio.twcbc.com

Margaret A. Burks  
600 Vine Street  
Suite 2200  
Cincinnati, OH 45202  
Cincinnati@cinn13.org

Office of the U.S. Trustee  
36 East Seventh Street, Ste. 2050  
Cincinnati, OH 45202  
Ustpreion09.ci.ecf@usdoj.gov

The undersigned certifies that a copy of the foregoing Motion for Relief from Stay of the secured creditor, U.S. Bank, N.A. by and through U.S. Bank Home Mortgage its servicer, was transmitted on March 23, 2011 via regular U.S. mail, postage pre-paid:

Raymond Brummett  
102 Stan Roberts Rd  
West Union, OH 45693

Nancy C. Brummett  
102 Stan Roberts Rd  
West Union, OH 45693

Citifinancial  
P.O. Box 6931  
The Lakes, NV 88901

/s/ Erin A Jochim  
Erin A Jochim, Case Attorney  
LERNER, SAMPSON & ROTHFUSS  
Bar Registration No. 0077062  
Attorneys for Movant  
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IN RE:

Raymond Brummett  
Nancy C. Brummett

Debtors

Case No. 10-10633

Chapter 13  
Judge Perlman

**NOTICE OF FILING OF MOTION  
OF U.S. BANK, N.A. BY AND  
THROUGH U.S. BANK HOME  
MORTGAGE ITS SERVICER FOR  
RELIEF FROM STAY AND  
NOTICE OF HEARING**

**(PROPERTY ADDRESS: 102 STAN  
ROBERTS ROAD, WEST UNION,  
OH 45693)**

**OFFICIAL FORM 20A**

U.S. Bank, N.A. by and through U.S. Bank Home Mortgage its servicer has filed papers with the Court to obtain relief from the automatic stay.

**YOUR RIGHTS MAY BE AFFECTED.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then within 21 days from the date of this notice, you or your attorney must:

\* File with the Court a written request for a hearing, or if the court requires a written response, an answer, explaining your position at:

Clerk, US Bankruptcy Court  
221 East Fourth Street  
Atrium Two, Suite 800  
Cincinnati, OH 45202

If you mail your request or response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

Nancy C. Brummett - Debtor  
102 Stan Roberts Rd  
West Union, OH 45693

Raymond Brummett - Debtor  
102 Stan Roberts Rd  
West Union, OH 45693

Margaret A. Burks - Trustee  
600 Vine Street  
Suite 2200  
Cincinnati, OH 45202

Citifinancial - Creditor  
P.O. Box 6931  
The Lakes, NV 88901

G. Timothy Dearfield, Esq. - Attorney for Debtors  
800 Gallia Street, Suite 28  
Portsmouth, OH 45662

David J Hoff, Esq. - Attorney for Debtors  
800 Gallia Street, Suite 28  
Portsmouth, OH 45662

Erin A Jochim, Esq. - Attorney for Movant  
PO Box 5480  
Cincinnati, OH 45201-5480

Office of the U.S. Trustee  
36 East Seventh Street, Ste. 2050  
Cincinnati, OH 45202

at the addresses listed thereon.



If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATED: March 23, 2011

/s/ Erin A Jochim  
Erin A Jochim, Case Attorney  
LERNER, SAMPSON & ROTHFUSS  
Bar Registration No. 0077062  
Attorneys for Movant  
PO Box 5480  
Cincinnati, OH 45201-5480  
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### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing Notice of Filing Motion for Relief from Stay of the secured creditor, U.S. Bank, N.A. by and through U.S. Bank Home Mortgage its servicer, was electronically transmitted on March 23, 2011 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice list:

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